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TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte REUVEN LAVIE

Appeal 2009-007051
Application 10/644,416
Technology Center 2800

Before MAHSHID D. SAADAT, MARC S. HOFF,
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304 or for filing a request for rehearing as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellant appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-8 and 10-24, which constitute all the claims pending in this application. Claim 9 is cancelled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellant's invention relates to an Ethernet connector having capacitively coupled terminals to reduce cross-talk (Abstract). Claims 1 and 8, which are illustrative of the invention, read as follows:

1. A method comprising:
capacitively coupling a pair of terminals of an Ethernet connector to reduce cross talk.

8. A network connector comprising:
a non-conductive housing having a jack;
a plurality of Ethernet terminals to receive Ethernet
network signals;
a first capacitor to couple a first pair of said Ethernet
terminals; and
a second capacitor to couple a second pair of said
Ethernet terminals, said terminals to contact mating Etherne
connectors.

The Examiner relies on the following prior art in rejecting the claims:

Paulson US 5,938,479 Aug. 17, 1999

Claims 1-8 and 10-17 stand rejected under 35 U.S.C. § 102(b) as anticipated by Paulson.

Claims 18-24 stand rejected under 35 U.S.C. § 103(a) as obvious over Paulsen.

Rather than repeat the arguments here, we make reference to the Briefs (Second Supplemental Appeal Brief, filed Feb. 4, 2009; Reply Brief filed Dec. 27, 2005) and the Answer (mailed Nov. 17, 2005) for the respective positions of Appellant and the Examiner. Only those arguments actually made by Appellant have been considered in this decision. Arguments that Appellant did not make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUES

Claims 1, 8, 17, and 20 are independent claims. Appellant argues claims 1-7 as a group contending that the cited art does not disclose an Ethernet connector or Ethernet terminals (App. Br. 10). Appellant's arguments for the patentability of claims 17-24 rely on the argument made for claims 1-7 (App. Br. 11). Appellant argues claims 8 and 10-16 as a group, contending Paulson does not disclose the "non-conductive housing having a jack" and "terminals to contact mating Ethernet connectors" as recited in claim 8 (App. Br. 11).

Therefore, we select claims 1 and 8 as the representative claims, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii). The issues are:

1. Does Paulson disclose an Ethernet connector having Ethernet terminals, as recited in claim 1?
2. Does Paulson disclose a non-conductive housing having a jack and terminals to contact mating Ethernet connectors, as recited in claim 8?

PRINCIPLES OF LAW

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987). “These elements must be arranged as in the claim under review, but this is not an ‘ipsissimis verbis’ test.” *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990) (citations omitted).

ANALYSIS

Claim 1

Appellant correctly asserts that the recitation of an “Ethernet connector” (otherwise known as an RJ-45 connector) is a structural limitation of the claim requiring specific connector structures and cannot be read out of the claim (App. Br. 10). However, we do not agree with Appellant’s contention that Paulson does not disclose an “Ethernet connector” (App. Br. 10; Reply Br. 1-2). Although Paulson does not use the term “Ethernet connector,” the use of the precise words is not required. *See Bond*, 910 F.2d at 832. Appellant has pointed to no structural or functional difference between the connector disclosed by Paulson and an Ethernet connector. Comparing the structure disclosed in Figure 1 of Paulson (e.g., overall geometry and number of contacts) to the structure illustrated in IEEE Standard 802.3, Figure 12-30 (*cf. Figs. 1, 4*), and considering the overall description found in Paulson’s disclosure (*see, e.g.*, Paulson, col. 1, ll. 5-10, 26-35; col. 2, ll. 28-36), we find that a person having ordinary skill in the Ethernet connector art would recognize that Paulson discloses an Ethernet connector.

Additionally, because we find that Paulson discloses an Ethernet connector, we further agree with the Examiner’s finding regarding claims 3 and 4 that Paulson discloses Ethernet terminals (Ans. 3) (*see, e.g.*, Paulson Figs. 5, 6). Appellant has submitted no further substantive arguments for the patentability of claims 17-24 (App. Br. 11). Accordingly, we sustain the rejections of claims 1-7 and 17-24.

Claim 8

Claims 8 recites “non-conductive housing having a jack” and “terminals to contact a mating Ethernet connector.” Appellant contends these features are further limitations not found in Paulson (App. Br. 11, Reply Br. 2). With regard to the recitation of “Ethernet,” we rely on the same findings and analysis set forth for claim 1, *supra*, and agree with the Examiner’s findings with respect to that recitation in claim 8 (Ans. 3-5). The Examiner further points to Paulson’s non-conductive housing 12 having a jack 20 and terminals 54 as meeting the remaining argued recitations of claim 8 (Ans. 5). We agree with the Examiner.

The Examiner’s findings are reinforced by Paulson’s disclosure in Figure 1 and at column 2, lines 28 to 36, which describe a modular plug opening 20 (i.e., “jack”) having spring contacts 22 (i.e., “terminals”) to engage a mating plug (i.e., “to contact a mating … connector”). Although Paulson does not explicitly use the term “non-conductive,” a person having ordinary skill in the art would understand from the overall disclosure of Paulson that the housing 12 is non-conductive. *See Bond*, 910 F.2d at 832. We note that, for example, in Paulson’s Figure 9, the portion of the housing 12 near the center of the figure is shown in physical contact with spring contact 56E, which would be understood by one skilled in the art to also be

in contact with spring contacts 56H, 62G, and 62H (*see also* Paulson, Fig. 2). One skilled in the art would recognize that the housing is non-conductive because a conductive material would render the connector non-functional.

Additionally, we observe that, as shown in Figure 9, Paulson uses the same graphical symbols to designate the material for the housing 12 and for the lead frame block 52. As such, the housing material is implied to be the same as that of lead frame block 52, which is disclosed by Paulson at column 3, lines 18 to 21, as being a dielectric (i.e., “non-conductive”) or plastic material.² *See* 37 C.F.R. § 1.84 (h)(3).

Accordingly, we sustain the rejection of claim 8 as well as claims 10-16 grouped therewith as falling with claim 8 (App. Br. 11).

ORDER

The decision of the Examiner rejecting claims 1-8 and 10-24 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

² Further, Figure 9 of Paulson specifically designates a non-conductive material for the housing 12 by using the conventional symbol for a synthetic resin or plastic material. *See* USPTO, *Symbols for Draftsmen*, <http://www.uspto.gov/web/offices/pac/design/drawing.html>.

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